

From: Peter Yellman
To: Microsoft ATR
Date: 12/8/01 5:26pm
Subject: DOJ / MS settlement is flawed

Hon. Judge Kotar-Kelly:

I been closely following the government's efforts to reign in Microsoft's illegal and anticompetitive behavior since 1995. I have also been a careful student of Microsoft's misbehavior since I gradually came to the conclusion between about 1995-1997 that Microsoft was stifling the advance of the computer/software industry (as well as being an incorrigible lawbreaker, which is facially evident) with nearly certain negative long-term effects for our nation's economy, despite the fact that I made my living at that time as a computer technician servicing Microsoft windows-based computers and software. I have been personal witness to outright lies perpetuated by Microsoft's top executives (Steve Ballmer).

The settlement in the Microsoft anti-trust trial, as proposed by Microsoft and the Department of Justice, will do very little to curb the illegal behavior that has become the hallmark of that corporation, and equally little to deter Microsoft from using its monopoly in operating systems to extend its market dominance to other markets and product areas.

On the other hand, the remedies recently proposed by the 9 dissenting states and the District of Columbia encapsulate exactly what needs to be done to reinvigorate the industry and once again make it a source of interesting and exciting professions. Frankly, I am pleasantly surprised and profoundly impressed with the group who put together that plan, as it addresses key issues which I previously (from other government prosecutions of Microsoft) concluded public/government officials were unable to grasp, or unwilling to address -- for example, the fairness of requiring Microsoft to open source the Internet Explorer web browser which it has imposed on the public through a wide variety of illegal means and which has now become a defacto standard. In addition to preventing Microsoft from unfairly using Internet Explorer as a wedge into new product and service markets and penalizing competitors, forcing the company to open source that product will undoubtedly be just the "gentle nudge" it needs to draw the line of separation between that product and the operating system, a relatively trivial technical task that it has repeatedly refused to undertake and which has been the subject of so much "debate".

Finally, I have to note that there is a cloud of suspicion over the DOJ's proposed settlement arising from the massive contributions made by Microsoft to the Bush campaign during the most recent presidential campaign, especially when tied to the apparent refusal of career attorneys at the DOJ to put their names on the deal and the

unprecedented private audience granted to top Microsoft executives shortly after President Bush took office. It is hard not to be cynical at the breathtaking about face we have witnessed at the Department of Justice under the new administration and the use of the terrorist attacks of September 11 to provide political cover for these actions.

Please do the right thing, Judge Kotar-Kelly.

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